

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHAWN RODRIGUEZ,

Defendant.

CR 01-99-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Shawn Rodriguez (Rodriguez) has been accused of violating the conditions of his supervised release. Rodriguez admitted all of the alleged violations. Rodriguez's supervised release should be revoked. Rodriguez should be placed in custody until January 16, 2023, with no supervised release to follow.

II. Status

Rodriguez pleaded guilty to Conspiracy to Distribute Methamphetamine on December 3, 2001. (Doc. 20). The Court sentenced Rodriguez to 230 months of custody, followed by 3 years of supervised release. (Doc. 31). Rodriguez's current term of supervised release began on June 11, 2021. (Doc. 121 at 2).

Petition

The United States Probation Office filed a Petition on December 13, 2022, requesting that the Court revoke Rodriguez's supervised release. (Doc. 121). The Petition alleges that Rodriguez violated the conditions of his supervised release: 1) by failing to report for substance abuse testing on two separate occasions; 2) by failing to report for mental health treatment on two separate occasions; and 3) by failing to report for substance abuse treatment. (Doc. 121).

Initial appearance

Rodriguez appeared before the undersigned for his initial appearance on December 19, 2022. Rodriguez was represented by counsel. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on December 19, 2022. Rodriguez stated that he had read the petition and that he understood the allegations. Rodriguez waived his right to a preliminary hearing. Rodriguez admitted that he had violated the terms of his supervised by: 1) by failing to report for substance abuse testing on two separate occasions; 2) by failing to report for mental health treatment on two separate occasions; and 3) by failing to report for substance abuse treatment. The violations are serious and warrant revocation of

Rodriguez's supervised release.

Rodriguez's violations are Grade C violations. Rodriguez's criminal history category is V. Rodriguez's underlying offense is a Class C felony. Rodriguez could be incarcerated for up to 24 months. Rodriguez could be ordered to remain on supervised release for up to 36 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 7 to 13 months.

III. Analysis

Rodriguez's supervised release should be revoked. Rodriguez should be placed in custody until January 16, 2023, with no supervised release to follow.

IV. Conclusion

The Court informed Rodriguez that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Rodriguez of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Rodriguez that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Rodriguez stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Shawn Rodriguez violated the conditions of his supervised release: by failing to report for substance abuse testing on two separate occasions; by failing to report for mental health treatment on two separate occasions; and by failing to report for substance abuse treatment.

The Court **RECOMMENDS:**

That the District Court revoke Rodriguez's supervised release and commit Rodriguez to the custody of the United States Bureau of Prisons until January 16, 2023, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 20th day of December, 2022.


John Johnston
United States Magistrate Judge